

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GEORGINA MORGENSTERN,

Plaintiff,

-against-

ORDER
CV 04-0058 (JS)(ARL)

COUNTY OF NASSAU, et al.,

Defendants.

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LINDSAY, Magistrate Judge:

Before the court is the plaintiff's letter application dated April 17, 2007, seeking to compel the defendant Patricia Bourne to appear for an additional five hours of deposition before May 25, 2007. The plaintiff contends that additional time is needed to complete a "fair examination" of the defendant because the defendant was evasive during her deposition. The plaintiff accuses the defendant and opposing counsel of seeking to "run out the clock" so that key areas of questioning could not be covered by the plaintiff's counsel. Needless to say, the defendants oppose the application arguing that the plaintiff was afforded an opportunity to conduct a fair examination of Ms. Bourne. They contend that it was counsel for the plaintiff's failure to properly pace the deposition that resulted in her inability to cover the remaining areas of questioning.

The court has reviewed what has been characterized by plaintiff's counsel as "the most egregious examples of Ms. Bourne's evasive conduct." Although Ms. Bourne can certainly be characterized as a cautious witness, the court does not glean from the transcript that she was being intentionally evasive. In fact, Ms. Bourne's conduct at the deposition does not appear to have wasted any more time than the time that plaintiff's counsel wasted when she questioned the deponent about why she didn't understand the questions or repeated subject areas that had already been covered albeit not to her satisfaction. Accordingly, the court does not believe that the

conduct of the deponent or of opposing counsel necessitates the granting of additional time.

However, it is undisputed that Ms. Bourne is a key witness and it is clear that plaintiff's counsel was unable to cover several key areas of questioning even if it was due to her own lack of experience. Therefore, the court directs the defendant Bourne to appear for a deposition for three additional hours. The plaintiff's questions will be limited to areas that were not addressed during the April 13, 2007 deposition.

Dated: Central Islip, New York
May 2, 2007

SO ORDERED:

_____/s/_____
ARLENE R. LINDSAY
United States Magistrate Judge